

**Summary of July 11, 2012 Meeting Between EPA and Powertech: Re Dewey Burdock
Uranium In Situ Recovery (ISR) Facility**

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Attendees

| EPA Region 8 | Powertech (and contractors) |
|------------------------------|---|
| Angelique Diaz (Air) | John Mays (Powertech) |
| Deborah Lebow Aal (Air) | Richard Blubaugh (Powertech) |
| Christopher Razzazian (Air) | Jack Fritz (Powertech's contractor – permit writer) |
| Kenneth Distler (NEPA) | |
| Albion Carlson (Enforcement) | |
| Valois Shea (UIC) | |
| Sara Laumann (ORC) | |

Background

Prior to this July 11 meeting, NRC shared a preliminary Chapter 2 of the Draft Supplemental Environmental Impact Statement (SEIS) with EPA for review and comment for the Dewey Burdock ISR facility. The preliminary review stage enables cooperator agencies like EPA to provide comments to the NRC that strengthens the EIS prior to the formal public draft SEIS review period. The information in the preliminary Draft SEIS discloses that the facility, as currently proposed, will not be in compliance with 40 CFR Part 61, Subpart W. Because the facility is not in compliance with the Subpart W standard, the EPA may issue an adverse rating on the Draft SEIS at the formal draft SEIS review. An adverse rating would likely result in substantial delays and changes for the project.

EPA and Powertech representatives met on July 11, 2012 to discuss the requirements of 40 CFR Part 61 Subpart W for the planned ponds at Powertech's proposed Dewey Burdock ISR facility. During the meeting, EPA reviewed the requirements of Subpart W and how they apply to ponds at ISR facilities. Powertech reviewed their proposed plan and informed EPA that a redesign of their proposed facilities would be very expensive (and would require changes to their NRC license application along with other permit applications), and not the direction they wished to go. They requested that EPA look into two questions regarding their site, which would help the facility be in compliance with the requirements of Subpart W. At the same time, Powertech made it clear that they maintain, consistent with the National Mining Association's position, that Subpart W does not apply to In Situ Uranium Recovery facilities. The two questions they would like us to explore are:

1. Can the treated water stream be "released" from the Subpart W definition of *uranium byproduct material* so that ponds storing treated water are not subject to Subpart W?

2. Can Dewey and Burdock be considered two separate facilities, each being allowed two ponds?

This is the first time questions of this nature have been asked regarding Subpart W regulated facilities. The definition of *uranium byproduct material* is an operational definition and is not based on any constituent levels in the waste.

Information on Dewey Burdock

- Dewey and Burdock are four miles from each other
- Dewey and Burdock are under the same radioactive materials license
- Dewey and Burdock operate independent of one another, however uranium loaded resin from Dewey will be sent to Burdock for processing into yellowcake
- Powertech is proposing 4 to 8 ponds at Dewey and 5 to 9 ponds at Burdock to manage their liquid waste (Note: some of the ponds are aggregated into one pond structure)
- The ponds will contain various process streams, including treated water that will either be deep well injected into a Class V permitted well and/or land applied through a discharge permit granted by the South Dakota Department of Environment and Natural Resources (SD DENR).
- The treated water will be treated to levels that, according to Powertech, will make it no longer be considered a “radioactive waste.”

Items to Consider

Can the treated water stream be “released” from the Subpart W definition of uranium byproduct material so that ponds storing treated water are not subject to Subpart W?

Ex. 5 Deliberative Process (DP)

Can Dewey and Burdock be considered two separate facilities, each being allowed two ponds?

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